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Attorneys for Defendant
CKP ENTERPRISES, INC.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ORLANDO GARCIA,

Plaintiff,

v.

CKP ENTERPRISES, INC., a California
Corporation; and Does 1-10,

Defendants.

Case No.

**DEFENDANT'S NOTICE OF
REMOVAL OF CIVIL ACTION
TO UNITED STATES DISTRICT
COURT**

(Kern County Superior Court Case No.
BCV-21-100015)

Complaint Filed: January 5, 2021

**TO THE CLERK OF THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF CALIFORNIA AND TO PLAINTIFF AND HIS
ATTORNEYS OF RECORD:**

PLEASE TAKE NOTICE that Defendant CKP Enterprises, Inc. (“Defendant”) hereby removes the above-referenced action filed by Plaintiff Orlando Garcia (“Plaintiff”) (collectively the “Parties”) in the Superior Court of the State of California for the County of Kern, to the United States District Court for the Eastern District of California, pursuant to 28 U.S.C. §§ 1441 and 1446, asserting original federal jurisdiction under 28 U.S.C. § 1331, to effect the removal of this action, and state that removal is proper for the reasons set forth below.

BACKGROUND

1. This removal involves a lawsuit that was filed by Plaintiff on January 5, 2021 in the Superior Court of the State of California for the County of Kern, entitled *Orlando Garcia v. CKP Enterprises, Inc.*, Case No. BCV-21-100015. *See* Declaration of Ashley N. Arnett (“Arnett Decl.”) at ¶ 3.

2. The Complaint asserts two claims for relief against Defendant: (1) violation of Title III of the Americans with Disabilities Act (“ADA”) (42 U.S.C. § 12101, *et seq.*) and (2) violation of the Unruh Civil Rights Act (California Civil Code §§ 51-53). *See* Arnett Decl. at ¶ 4 and Exh. A thereto.

TIMELINESS OF REMOVAL

3. Plaintiff served Defendant with the Complaint on February 1, 2021. *See* Arnett Decl. at ¶ 5.

4. As such, this Notice of Removal is timely as it is filed within thirty (30) days “after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based....” *See* 28 U.S.C. § 1446(b)(1).

GROUND FOR REMOVAL

5. This Court has original jurisdiction over actions involving one or more federal questions. *See* 28 U.S.C. § 1331 (conferring original jurisdiction upon federal courts for actions arising under the laws of the United States). Further, this Court “shall have supplemental jurisdiction over all other claims that are so related to claims in the action within such original [federal question] jurisdiction that they form part of the same case or controversy” 28 U.S.C. § 1367(a).

6. Plaintiff’s first cause of action in the Complaint seeks remedies under Title III of the ADA—a federal statute codified at 42 U.S.C. §§ 12181, *et seq.* *See* Arnett Decl. at ¶ 4 and Exh. A thereto (Complaint pp. 8-9). This action therefore presents a federal question over which this Court has original jurisdiction pursuant to 28 U.S.C. § 1331.

7. Plaintiff’s remaining claim is asserted under California’s Civil Code §§ 51-53 (Unruh Civil Rights Act) based on an alleged failure to provide full and equal access to Defendant’s services, specifically relating to Defendant’s reservation policies and practices, in violation of the ADA. *See* Arnett Decl. at ¶ 4 and Exh. A thereto (Complaint p. 10).

8. Accordingly, this Court has supplemental jurisdiction over Plaintiff’s state law claim as it arises from, relates to, and emanates from the same alleged ADA violation, and is so related that it forms part of the same case or controversy pursuant to 28 U.S.C. § 1367(a).

VENUE

9. Venue lies in the United States District Court for the Eastern District of California pursuant to 28 U.S.C. §§ 84(c)(2) and 1391. This action originally was brought in the Superior Court of the State of California for the County of Kern, which is located within the Eastern District of the State of California, and the allegations in Plaintiff’s Complaint occurred in the County of Kern.

NOTICE OF REMOVAL

10. This Notice of Removal will be promptly served on Plaintiff and filed with the Clerk of the Superior Court of the State of California for the County of Kern.

11. In compliance with 28 U.S.C. § 1446(a), true and correct copies of all process, pleadings, and orders served upon Defendant, including the Summons and Complaint, are attached as Exhibit A to the Declaration of Ashley N. Arnett.

12. The undersigned, as counsel for Defendant, has read the foregoing and signs this Notice of Removal pursuant to Rule 11 of the Federal Rules of Civil Procedure, as required by 28 U.S.C. § 1446(a).

WHEREFORE, Defendant prays that the above action pending before the Superior Court of the State of California for the County of Kern be removed to the United States District Court for the Eastern District of California.

DATED: March 2, 2021

SEYFARTH SHAW LLP

By: /s/ Ashley N. Arnett
Ashley N. Arnett
Attorneys for Defendant
CKP ENTERPRISES, INC.